

_____ BILL NO. _____

INTRODUCED BY _____

(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CONSTRUCTION LIEN PRIORITIES FOR CERTAIN REAL ESTATE IMPROVEMENT CONTRACTS; AND AMENDING SECTIONS 71-3-521 AND 71-3-542, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 71-3-521, MCA, is amended to read:

"71-3-521. Scope. This part creates and provides for the attachment and enforceability of a construction lien against real estate in favor of a person furnishing services or materials under ~~a certain~~ real estate improvement ~~contract~~ contracts. A nonconsensual lien against real estate for improvements made ~~thereon on~~ that real estate may not ~~arise~~ be filed except as provided in this part."

Section 2. Section 71-3-542, MCA, is amended to read:

"71-3-542. Priority of construction liens as against claims other than construction lien claims. (1) A construction lien ~~arising~~ filed under this part has priority over any other interest, lien, mortgage, or encumbrance that may attach to the building, structure, or improvement or on the real property on which the building, structure, or improvement is located and ~~which that~~ is filed after the construction lien attaches.

(2) An interest, lien, mortgage, or encumbrance that is filed before the construction lien attaches has priority over a construction lien arising under this part, except as provided in subsections (3) and (4).

(3) A construction lien has priority, to the extent of the value of the work or improvement that is severable, over an interest, lien, mortgage, or encumbrance that is filed before the construction lien attaches. If the work or improvement may be removed without harm to the rest of the real property, the lienholder may have the value determined, the work or improvement sold separately on foreclosure, and the proceeds delivered to ~~him~~ the lienholder to satisfy the construction lien.

(4) A construction lien for a real estate improvement contract has priority over any interest, lien, mortgage, or encumbrance that is filed before the construction lien attaches if:

(a) that interest, lien, mortgage, or encumbrance was taken to secure advances ~~made for the purpose~~ of paying to pay for the particular real estate improvement being lien~~ed~~; and

1 (b) the amount of the lien is less than \$10,000 or 3% of the assessed value of the improved property,
2 whichever is greater."

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4 NEW SECTION. **Section 3. Saving clause.** [This act] does not affect rights and duties that matured,
5 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

6 - END -